

Jessica L. Blome
Cal. Bar No. 314898
GREENFIRE LAW, PC
2748 Adeline Street, Suite A
Berkeley, CA 94703
(510) 900-9502
jblome@greenfirelaw.com

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

THE STATE OF CALIFORNIA;
GAVIN C. NEWSOM, in his Official
Capacity as Governor of California;
KAREN ROSS, in her Official Capacity
as Secretary of the California
Department of Food & Agriculture;
ERICA PAN, in her Official Capacity
as Director of the California Department
of Public Health; and ROB BONTA, in
his Official Capacity as Attorney
General of California,

Defendants.

Case No.: 2:25-cv-06230-MCS-AGR

**MEMORANDUM OF LAW IN
SUPPORT OF THE CENTER FOR
A HUMANE ECONOMY AND
ANIMAL WELLNESS ACTION'S
MOTION TO DISMISS**

Date: January 12, 2026
Time: 9:00 a.m.
Location: Courtroom 7C, 7th Fl.
Judge: Hon. Mark C. Scarsi

Table of Contents

I. Introduction	8
II. Background.....	12
A. Humane welfare and state markets.	12
B. California’s Proposition 12	14
III. Rule 12(b)(6) Standard	17
IV. Argument.....	18
A. The Complaint should be dismissed under Rule 12(b)(6) because Plaintiff’s preemption claims fail as a matter of law.	18
1. The EPIA is a food inspection and identification law, and was never intended to regulate production upstream.....	19
2. The EPIA does not expressly preempt AB 1437 nor Proposition 12 (Counts I and II).....	21
3. The EPIA also does not impliedly preempt AB 1437 nor Proposition 12, as there is no irreconcilable conflict between EPIA goals and humane standards (Counts I and II).....	26
4. Plaintiff’s claim for preemption regarding packaging and labeling of egg products fails (Count III).	28
V. Conclusion.....	31

Table of Authorities

Cases

<i>Altria Grp., Inc. v. Good,</i> 555 U.S. 70 (2008)	18, 21
<i>Ash v. Anderson Merchs., L.L.C.,</i> 799 F. 3d 957 (8th Circuit 2015).....	17
<i>Ashcroft v. Iqbal,</i> 565 U.S. 662 (2009)	17
<i>Ass’n des Éleveurs de Canards et d’Oies du Quebec v. Becerra,</i> 870 F.3d 1140 (9th Cir. 2017).....	25, 27
<i>Bates v. Dow Agrosciences LLC,</i> 544 U.S. 431 (2005)	21
<i>Bell Atl. Corp. v. Twombly,</i> 550 U.S. 544 (2007)	17
<i>Berman v. Parker,</i> 348 U.S. 26 (1954).	14
<i>Chamber of Commerce v. Whiting,</i> 563 U.S. 582 (2011)	26
<i>Claybaugh v. Trader Joe’s Co.,</i> No. RG18897085 (Super. Ct. Alameda Cty., Cal., Mar. 15, 2018)	31
<i>Cresenzi Bird Imps., Inc. v. New York,</i> 658 F. Supp. 1441 (S.D.N.Y. 1987).....	13
<i>Cresenzi Bird Imps., Inc. v. New York,</i> 831 F.2d 410 (2d Cir. 1987).....	13
<i>Crosby v. Nat’l Foreign Trade Council,</i> 530 U.S. 363 (2000)	26
<i>Gade v. Nat’l Solid Wastes Mgmt. Ass’n,</i> 505 U.S. 88 (1992)	19, 26

1	<i>Hines v. Davidowitz,</i>	
2	312 U.S. 52 (1941)	26, 27
3	<i>Iowa Pork Producers Ass’n v. Bonta,</i>	
4	No. 22-55336, 2024 WL 3158532 (9th Cir. June 25, 2024)	27
5	<i>Iowa Pork Producers Ass’n v. Bonta,</i>	
6	No. 24-728, 2025 WL 1787818 (June 30, 2025)	27
7	<i>Janecyk v. Eggland's Best, Inc.,</i>	
8	1:24-cv-06222 (N.D. Ill. July 23, 2024).....	31
9	<i>Medicaid & Medicare Adv. Prod. Ass’n of Puerto Rico, Inc. v. Emanuelli</i>	
10	<i>Hernandez,</i>	
11	58 F.4th 5 (1st Cir. 2023)	21
12	<i>Medtronic, Inc. v. Lohr,</i>	
13	518 U.S. 470 (1996)	18
14	<i>Mogull v. Pete & Gerry's Organics,</i>	
15	588 F. Supp. 3d 448 (S.D.N.Y. 2022)	31
16	<i>Nat’l Meat Ass’n v. Harris,</i>	
17	565 U.S. 452 (2012)	23, 24
18	<i>National Pork Producers Council v. Ross,</i>	
19	598 U.S. 356 (2023)	10, 12, 13
20	<i>People v. K. Sakai Co.,</i>	
21	56 Cal. App. 3d 531 (1976).....	13, 14
22	<i>Retail Clerks v. Schermerhorn,</i>	
23	375 U.S. 96 (1963)	19
24	<i>Rice v. Norman Williams Co.,</i>	
25	458 U.S. 654 (1982)	21
26	<i>Rice v. Santa Fe Elevator Corp.,</i>	
27	331 U.S. 218 (1947)	18, 19, 21
28	<i>Triumph Foods v. Campbell,</i>	
	742 F. Supp. 3d 63 (D. Mass. 2024)	25

1	<i>Triumph Foods v. Campbell,</i>	
2	No. 24-1759, 2025 U.S. App. LEXIS 25777 (1st Cir. Oct. 3, 2025)	19, 24, 27
3	<i>United States v. Agnew,</i>	
4	931 F.2d 1397 (10th Cir. 1991).....	25
5	<i>Viva! Internat. Voice for Animals v. Adidas Promotional Retail Operations,</i>	
6	<i>Inc.,</i>	
7	41 Cal. 4th 929 (2007)	28
8	<i>Wyeth v. Levine,</i>	
9	555 U.S. 555 (2009)	18
10	Statutes	
11	21 U.S.C. § 1031 <i>et seq.</i>	9, 18
12	21 U.S.C. § 1032	18
13	21 U.S.C. § 1052	20
14	21 U.S.C. § 1052(b).....	20
15	21 U.S.C.S. § 1033(a).....	23
16	21 U.S.C.S. § 1033(g)(8).....	24
17	7 U.S.C. § 6501 <i>et seq.</i>	11
18	Cal. Health & Safety Code, § 25990	13
19	Cal. Health & Safety Code, § 25993.1	14
20	Cal. Health & Safety Code, § 25995(e).....	13
21	Cal. Health & Safety Code, § 25996	14
22	Cal. Health & Safety Code, §§ 25990-25993.....	14
23	Cal. Penal Code Ann. § 599f(a)–(c)	22
24	Regulations	
25	88 Fed. Reg. 75394.....	11
26		
27		
28		

1	9 CFR § 590.200(8).....	28
2	9 CFR § 590.410-415	28
3	Cal. Code Regs. Tit. 3, § 1320.4	27
4	Cal. Code Regs. Tit. 3, § 1320.4(a).....	27
5	Cal. Code Regs. Tit. 3, § 1320.4(c).....	29
6	Cal. Code Regs. Tit. 3, § 1320.4(d).....	29
7	Cal. Code Regs. Tit. 3, § 1350	13
8	Iowa Admin. Code r. 12-36.8(3).....	21, 28
9	S.C. Code Regs. § 5-228(1).....	21
10		
11	Other Authorities	
12	<i>Cage-Free Verification Of USDA Graded Shell Eggs</i> , U.S. Dep’t Agric.,	
13	Agric. Marketing Serv. (Dec. 1, 2019),	
14	https://www.ams.usda.gov/publications/content/cage-free-verification-	
15	usda-graded-shell-eggs	30
16	Cal. Sec’y of State, Voter Information Guide 70 (2018),	
17	https://vig.cdn.sos.ca.gov/2018/general/pdf/complete-vig.pdf	15
18	Egg Products Inspection Act: Hearing Before the Committee on Agriculture	
19	and Forestry, 91st Cong. 30-1 (1969) (statement of U.S. Sen. George D.	
20	Aiken).....	20
21	Egg Products Inspection Act: Hearing Before the Committee on Agriculture	
22	and Forestry, 91st Cong. 48 (1969) (statement of Egg Committee	
23	Chairman of the Institute of American Poultry Industries M.J.	
24	Chamberlain	21
25	<i>Farm Animal Confinement Bans by State</i> , Am. Soc’y for the Prevention of	
26	Cruelty to Animals, https://www.asPCA.org/improving-laws-	
27	animals/public-policy/farm-animal-confinement-bans (last visited Oct. 5,	
28	2025)	12
	<i>Special Report: California Becomes 4th Largest Economy as Japan’s</i>	
	<i>Economy Slowed in 2024</i> , California Center for Jobs & the Economy,	

1 [https://centerforjobs.org/ca/special-reports/special-report-california-](https://centerforjobs.org/ca/special-reports/special-report-california-becomes-4th-largest-economy-as-japans-economy-slowed-in-2024)
2 [becomes-4th-largest-economy-as-japans-economy-slowed-in-2024](https://centerforjobs.org/ca/special-reports/special-report-california-becomes-4th-largest-economy-as-japans-economy-slowed-in-2024) (last
3 visited Oct. 5, 2025).....14

4 Timothy Ruth, *Overall U.S. crop production is concentrated in California*
5 *and the Midwest*, U.S. Dep’t Agric. Econ. Research Serv. (Feb. 22,
6 2023), [https://www.ers.usda.gov/data-products/chart-gallery/chart-](https://www.ers.usda.gov/data-products/chart-gallery/chart-detail?chartId=58320)
7 [detail?chartId=58320](https://www.ers.usda.gov/data-products/chart-gallery/chart-detail?chartId=58320).....14

I. Introduction

The administration's most recent filing against California's Propositions 2 and 12, along with AB 1437, represents not only a direct attack on duly enacted state laws, but also a challenge to the democratic will of millions of Californians who voted—overwhelmingly and decisively—to improve the welfare of farm animals and ensure more humane standards for the products sold in their state. California voters first approved Proposition 2 in 2008, and then strengthened those standards through Proposition 12 in 2018, setting clear requirements for the space afforded to egg-laying hens. These measures reflect the voice of the people, freely expressed through the ballot box, and their decision to reject inhumane confinement systems and support higher animal-welfare standards.

In the past seventeen years since the enactment of Proposition 2, producers have spent billions of dollars to increase their cage-free systems to now account for approximately 45% of US production. Today, there are ten states who already have or are slated to ban the sale of eggs from battery cage systems. Yet despite the rapid spread of cage free production requirements across several states and a large share of the of industry shifting to accommodate those demands, the federal government has chosen to single out California to make its sudden claim that the cage free standards are somehow now, after seventeen years, implicating the safety of eggs in the marketplace. Such claims are, on their face, unfounded.

1 In its complaint, Plaintiff also claims that Proposition 12 has contributed to a
2 “historic rise” in egg prices.¹ This assertion distorts both the facts and the broader
3 context. While the government points to a 2023 study² as evidence to support their
4 claim, that study evaluated only egg prices in California—not nationwide
5 impacts—and thus cannot fairly be generalized as an impact to “American
6 consumers” as Plaintiff states. Moreover, Plaintiff’s claim disregards the most
7 significant driver of recent egg price spikes: severe outbreaks of avian influenza
8 across the United States, which have resulted in the culling of tens of millions of
9 birds and substantial supply disruptions.³ Ignoring these realities in order to
10 scapegoat Proposition 12 misleads both the courts and the public.
11

12
13
14 Plaintiffs also falsely aver that by enacting these laws, “California has
15 effectively prevented farmers *across the country* from using a number of
16 agricultural production methods.”⁴ (Emphasis in original.) Propositions 2 and 12
17 do no such thing; indeed, farmers *across the country* are free to ignore the
18 standards imposed by these laws and continue to produce eggs in any production
19
20
21
22

23 ¹ Compl. ¶ 2, ECF No. 1.

24 ² *Id.* at ¶ 5.

25 ³ See, e.g., Bernt Nelson, *Egg Prices Continue Setting Records*, American Farm Bureau
26 Federation (Mar. 11, 2025), <https://www.fb.org/market-intel/egg-prices-continue-setting-records>
27 (“The loss of egg-laying chickens from HPAI [Highly Pathogenic Avian Influenza] is the biggest
28 factor driving up egg prices...”).

⁴ Compl. ¶ 2, ECF No. 1.

1 method they choose. This was pointed out in the challenge to Proposition 12 that
2 reached the Supreme Court. *See National Pork Producers Council v. Ross*, 598
3 U.S. 356 (2023) at 360, 385 (noting repeatedly that producers may or may not
4 *choose* to comply with Proposition 12).

5
6 California's citizens weighed these very trade-offs, including impacts on
7 costs of eggs in their state, when they cast their ballots. They recognized that more
8 humane farming practices may entail higher production costs for eggs they
9 purchase, but nonetheless voted for stronger protections because they believed that
10 the ethical treatment of animals, the integrity of the food sold in their communities
11 mattered, and the support of small family farms, more. Agricultural production has
12 increasingly moved to be controlled by only a few major corporations—some of
13 the largest of which are foreign-owned, including by America's geopolitical
14 adversaries—and it has become increasingly challenging for small, authentic farms
15 to economically compete with Big Agribusiness's factory-style of farming,
16 especially with the federal government's apparent abandonment of supporting local
17 American agriculture. But California's laws help to level this playing field, by
18 ensuring that American traditional American farming practices, which pride proper
19 husbandry, continue to be viable in an age where quantity is valued over quality.
20 By challenging Proposition 12, the federal government is asking the courts to
21 override the democratic choices of California's voters to support these long-held
22
23
24
25
26
27
28

1 farming values, and to undermine the state’s ability to regulate the standards for
2 products sold within its borders. Respect for the democratic process, as well as
3 respect for the truth of what drives national food prices, requires rejection of
4 Plaintiff’s claims.
5

6 Plaintiff’s legal footing in this matter is as infirm as their factual assertions.
7
8 Plaintiff misconstrues the scope of the Egg Products Inspection Act (EPIA) and the
9 legal requirements for preemption. Congress enacted the EPIA to regulate the
10 safety of eggs and egg products at processing facilities. 21 U.S.C. § 1031 *et seq.*
11
12 The EPIA seeks to ensure that food entering commerce is safe for human
13 consumption, like its sister laws the Federal Meat Inspection Act (FMIA) and
14 Poultry Products Inspection Act (PPIA). Also like the FMIA and the PPIA,
15 Congress never intended the EPIA to displace state police powers over their own
16 markets. In contrast, AB 1437 and Propositions 2 and 12 were enacted due to
17 voters’ multifold concerns regarding certain inhumane animal husbandry practices
18 and the desire to avoid those products from entering their local markets. This type
19 of legislation serves to align local consumer markets with more desirable
20 agricultural practices and is within the States’ historic police powers, given the
21 federal government’s regulatory neglect in the animal humane husbandry arena. As
22 Justice Gorsuch also pointedly remarked in the U.S. Supreme Court decision
23 upholding Proposition 12 under the Dormant Commerce Clause, “Congress has yet
24
25
26
27
28

1 to adopt any statute that might displace Proposition 12 or laws regulating pork
2 production in other States.” *Ross*, 598 U.S. at 368 (2023) (citing a host of
3 unadopted federal bills). The same is true as to the lack of Congressional action to
4 regulate humane husbandry of egg-laying hens.
5

6 **II. Background**

7 **A. Humane welfare and state markets.**

8 States began formulating animal anti-cruelty laws hundreds of years ago, *see*
9
10 *Ross*, 598 U.S. at 365, and these laws are now part of the fabric of governance in
11 every state. They address countless concerns, including malicious cruelty,
12 dogfighting and cockfighting, puppy mills, wildlife and wildlife products import,
13 farm animal welfare, and more. And in the face of these advancements, Congress
14 has remained silent on the subject of farm animal confinement, much less humane
15 husbandry or sales of products from intensively confined animals.⁵ Humane
16 standards for the raising of farmed animals, especially as this husbandry comprises
17 and interacts with a state’s economy, remain entirely within states’ purview. As of
18 now, more than one dozen states and counting have laws touching upon intensive
19
20
21
22
23

24 ⁵ The only federal regulations on humane farm animal confinement are found under the National
25 Organic Program’s regulations, most recently updated at 88 Fed. Reg. 75394 (Nov. 2, 2023), but
26 these regulations only apply to products that opt into the federal organic labeling system. They
27 are more aptly described as labeling regulations, rather than humane husbandry rules, and are not
28 enacted pursuant to the FMIA but rather the Organic Foods Production Act, 7 U.S.C. § 6501 *et*
seq.

1 confinement of farmed animals.⁶ Some such laws incorporate prohibitions against
2 the sale of certain products deemed undesirable due to intensive confinement
3 farming practices. But this is nothing new: states have banned various products
4 from entering their market out of welfare concerns falling squarely within states’
5 rightful police power. *See, e.g., People v. K. Sakai Co.*, 56 Cal. App. 3d 531, 535
6 (1976) (upholding California state ban against the sale of whale meat in a
7 Supremacy Clause challenge) (cleaned up); *Cresenzi Bird Imps., Inc. v. New York*,
8 658 F. Supp. 1441, 1446 (S.D.N.Y. 1987) (holding New York law requiring wild
9 birds sold in state to have been raised in captivity, be marked with leg bands from
10 birth, and imposing record requirements, is not preempted by federal quarantine
11 laws nor the Endangered Species Act), *aff’d*, 831 F.2d 410 (2d Cir. 1987). *See also*
12 *Ross*, 598 U.S. at 387 (examples of product bans again horsemeat; fireworks;
13 single-use plastic bags).

14 Regulation of moral, safety, and health are the “traditional” applications of
15 the police power. “Public safety, public health, morality, peace and quiet, law and
16 order—these are some of the more conspicuous examples of the traditional
17 application of the police power to municipal affairs. Yet they merely illustrate the
18 scope of the power and do not delimit it.” *Berman v. Parker*, 348 U.S. 26, 32

19 ⁶ *Farm Animal Confinement Bans by State*, Am. Soc’y for the Prevention of Cruelty to Animals,
20 <https://www.aspc.org/improving-laws-animals/public-policy/farm-animal-confinement-bans>
21 (last visited Oct. 5, 2025).

1 (1954). The scope of the police power is not only broad and delimited in scope, but
2 also flexible and evolving. “changes with changing social and economic
3 conditions.” *People v. K. Sakai Co.*, 56 Cal. App. 3d at 535. “It is not a
4 circumscribed prerogative, but is elastic and . . . capable of expansion to meet
5 existing conditions of modern life and thereby keep pace with the social,
6 economic, moral, and intellectual evolution of the human race.” *Id.* (cleaned up).
7
8 California’s humane egg laws are emblematic of such an evolution, and other
9 states have followed suit.
10
11

12 **B. California’s Proposition 12**

13 California is the fourth largest economy in the world today.⁷ It also produces
14 more food in total—fruit, vegetables, meat, nuts, dairy, and eggs—than any other
15 U.S. state by a wide margin.⁸
16

17 Due to growing public concerns about the negative impacts of intensive
18 confinement of farm animals, California voters passed Proposition 2 in 2008 to, in
19 the Legislature’s own words, “protect California consumers from the deleterious[]
20
21

22 ⁷ In 2024, the International Monetary Fund’s World Economic Outlook data found California’s
23 nominal GDP to be \$4.1 trillion, behind only the United States, China and Germany. *See Special*
24 *Report: California Becomes 4th Largest Economy as Japan’s Economy Slowed in 2024*,
25 California Center for Jobs & the Economy, <https://centerforjobs.org/ca/special-reports/special-report-california-becomes-4th-largest-economy-as-japans-economy-slowed-in-2024> (last visited Oct. 5, 2025).

26 ⁸ Timothy Ruth, *Overall U.S. crop production is concentrated in California and the Midwest*,
27 U.S. Dep’t Agric. Econ. Research Serv. (Feb. 22, 2023), <https://www.ers.usda.gov/data-products/chart-gallery/chart-detail?chartId=58320>.
28

1 health, safety, and welfare effects of the sale and consumption of eggs derived
2 from egg-laying hens that are exposed to significant stress,” as well as potentially
3 reducing some public health risks. Cal. Health & Safety Code, § 25995(e). In
4 relevant part, Proposition 2 required that in-state farmers provide egg-laying hens
5 enough room to turn around freely, lie down, stand up, and fully extend their
6 limbs. *Id.* at § 25990 (2008). The state’s implementing regulations required 0.8
7 square feet of floor space per egg-laying hen. Cal. Code Regs. Tit. 3, § 1350. Over
8 the next decade, the law was further amended; in 2010, through AB 1437, the
9 Legislature required that any shelled eggs sold in California come from animals
10 housed in compliance with the standards in Chapter 13.8 of the California Health
11 and Safety Code (i.e., the codified Proposition 2). *See* Cal. Health & Safety Code,
12 § 25996.

13
14
15
16
17 Most recently, California voters overwhelming approved Proposition 12 in
18 2018. Proposition 12 aimed to create new and stronger minimum requirements for
19 space afforded to egg-laying hens and again prohibited the sale of any eggs
20 (including liquid eggs this time) in California that come from animals raised in
21 conditions that are not compliant with the measure’s upgraded minimum
22 requirements. Cal. Prop. 12 (2018), Sections 3-7 (amending Cal. Health & Safety
23 Code, §§ 25990-25993 and adding § 25993.1).
24
25
26
27
28

1 According to the 2018 Voter Information Guide provided to California
2 voters, Proposition 12 has multifold rationales, including preventing cruel products
3 from entering the market, improving the California economy by helping family
4 farmers and providing more jobs, preventing cruel treatment of animals, and
5 providing potential further risk reduction against pollution and disease given the
6 links identified between intensive confinement and pathogen proliferation. Cal.
7 Sec’y of State, Voter Information Guide 70 (2018),
8 <https://vig.cdn.sos.ca.gov/2018/general/pdf/complete-vig.pdf>. In other words,
9 Proposition 12 was designed and intended to improve the humaneness of
10 California’s economy in multiple ways while safeguarding both animal and human
11 welfare and safety, much like its earlier relative Proposition 2.
12

13 These laws reflect Californians’ decision to shape their market around
14 humane standards; i.e., creating a more “humane economy.” This approach ensures
15 that consumers can buy with confidence, aware that their purchases do not support
16 practices they deem inhumane. This is especially so in a time where
17 “humanewashing,” like its environmental counterpart greenwashing, has become
18 widespread and the use of terms such as “humane” and “cage free” are confusing
19 and unregulated. *See infra* Part IV(A)(4). It also levels the economic playing field
20 for farmers who have already invested in humane husbandry systems. Without
21 such laws, producers committed to higher welfare standards face competition from
22
23
24
25
26
27
28

1 operators who rely on extreme confinement practices. By conditioning in-state
2 product sales on humane husbandry practices, California’s humane egg laws
3 prevent this market distortion and ensure that humane farming can be economically
4 viable.
5

6 **III. Rule 12(b)(6) Standard**

7 To survive a motion to dismiss, a complaint must demonstrate that the
8 Plaintiff’s claims are more than just “conceivable, “but are in fact “plausible on
9 [their] face.” *Ashcroft v. Iqbal*, 565 U.S. 662, 678 (2009 (quoting *Bell Atl. Corp. v.*
10 *Twombly*, 550 U.S. 544, 555 (2007))). In applying this plausibility standard, the
11 Court should disregard conclusory statements, even when “couched as a factual
12 allegation.” *Twombly*, 550 U.S. at 555 (internal quotation marks and citation
13 omitted).
14
15
16

17 “A claim has facial plausibility when the Plaintiff pleads factual content that
18 allows the Court to draw the reasonable inference that the Defendant is liable for
19 the misconduct alleged.” *Ash v. Anderson Merchs., L.L.C.*, 799 F. 3d 957, 960 (8th
20 Circuit 2015) (quoting *Iqbal*, 556 U.S. at 678). “Threadbare recitals of the
21 elements of a cause of action, supported by mere conclusory statements, do not
22 suffice.” *Iqbal*, 556 U.S. at 678. When evaluating a motion to dismiss, a Court
23 does not need to accept a legal conclusion “couched as a factual allegation.” *Id.* at
24 678.
25
26
27
28

1 **IV. Argument**

2 **A. The Complaint should be dismissed under Rule 12(b)(6)**
3 **because Plaintiff's preemption claims fail as a matter of**
4 **law.**

5 Plaintiff has presented no triable issue of fact, and their complaint must be
6 dismissed. Each of the preemption claims fail as a matter of law.

7 First, Plaintiff necessarily faces a steep uphill battle due to the strong
8 presumption against federal preemption of state law and, more broadly, the well-
9 balanced federalism our system so zealously guards. “When addressing questions
10 of express or implied pre-emption, [a court] begin[s] [its] analysis ‘with the
11 assumption that the historic police powers of the States [are] not to be superseded
12 by the Federal Act unless that was the clear and manifest purpose of Congress.’”
13 *Altria Grp., Inc. v. Good*, 555 U.S. 70, 77 (2008) (quoting *Rice v. Santa Fe*
14 *Elevator Corp.*, 331 U.S. 218, 230 (1947)). This presumption is especially
15 powerful when the legislation in question is within the area traditionally governed
16 by states, such as public health, consumer preferences and safety, product safety,
17 marketing, and more. *Altria*, 555 U.S. at 77; *Medtronic, Inc. v. Lohr*, 518 U.S. 470,
18 485 (1996); *Rice*, 331 U.S. at 230. The laws in question here fall squarely within
19 this realm.
20
21
22
23

24 The “two cornerstones” of preemption analysis are, first, “Congressional
25 intent [as] the ultimate touchstone,” and second, a strong presumption against
26 preemption. *Wyeth v. Levine*, 555 U.S. 555, 565 (2009) (quoting *Medtronic*, 518
27
28

1 U.S. at 494 (alteration in original) (internal quotation marks omitted); also citing
2 *Retail Clerks v. Schermerhorn*, 375 U.S. 96, 103 (1963) and *Rice*, 331 U.S. at 230).

3
4 “Congress’ intent, of course, is primarily discerned from the language of the
5 pre-emption statute and the ‘statutory framework’ surrounding it.” *Medtronic* at
6 486 (citing *Gade v. Nat’l Solid Wastes Mgmt. Ass’n*, 505 U.S. 88, 111 (1992)
7 (Kennedy, J., concurring in part and concurring in judgment)). This includes the
8 “‘structure and purpose of the statute as a whole’ ... as revealed not only in the
9 text, but through the reviewing court’s reasoned understanding of the way in which
10 Congress intended the [federal] statute and its surrounding regulatory scheme to
11 affect business, consumers, and the law.” *Medtronic* at 486 (citing *Gade*, 505 U.S.
12 at 98 (opinion of O’Connor, J.)).

13
14
15
16 **1. The EPIA is a food inspection and identification law,**
17 **and was never intended to regulate production**
18 **upstream.**

19 The EPIA, like the FMIA, regulates food inspection, rather than food
20 production. *See Triumph Foods v. Campbell*, No. 24-1759, 2025 U.S. App. LEXIS
21 25777, at *36 (1st Cir. Oct. 3, 2025) (because FMIA regulates meat inspection, not
22 meat production, Massachusetts ban on sale of inhumanely produced pork not
23 preempted by FMIA).

24
25 The EPIA’s intent is plain from the statutory language itself: “It is essential,
26 in the public interest, that the health and welfare of consumers be protected by the
27
28

1 adoption of measures prescribed herein for assuring that eggs and egg products
2 distributed to them and used in the products consumed by them are wholesome,
3 otherwise not adulterated, and properly labeled and packaged.” 21 U.S.C. § 1031.
4
5 The following section states that Congress “hereby...provide[s] for the inspection
6 of certain egg products, restrictions upon the disposition of certain qualities of
7 eggs, and uniformity of standards...to prevent the movement or sale for human
8 food, of eggs and egg products which are adulterated or misbranded...”. 21 U.S.C.
9 § 1032. Simply stated, the entirety of intent of the EPIA is focused on concerns
10 around adulteration and product safety.
11
12

13 The legislative history behind the EPIA reveals a solitary focus on consumer
14 safety and confidence. In a 1969 Congressional hearing, testimony revealed the
15 impetus behind the EPIA was the lack of confidence in the patchwork and
16 haphazard state inspection regimes. *See* Egg Products Inspection Act: Hearing
17 Before the Committee on Agriculture and Forestry, 91st Cong. 30-1 (1969)
18 (statement of U.S. Sen. George D. Aiken) (characterizing the bill as one for
19 consumer protection and to protect producers’ markets from “bad eggs” slipping
20 through inspection); 35-7 (statement of Asst. Sec. of Agric. Richard E. Lyng)
21 (characterizing the EPIA again as an inspection bill and a bill to restrict “cracked,”
22 “leaking,” or “dirty” eggs from being sold in liquid egg form via egg processing
23
24
25
26
27
28

1 plants; discussing previous voluntary federal inspection scheme for liquid egg
2 production facilities and the need for a compulsory inspection regime).

3
4 **2. The EPIA does not expressly preempt AB 1437 nor**
5 **Proposition 12 (Counts I and II).**

6 Plaintiff has failed to plausibly allege as a matter of law that California’s
7 laws are preempted by the EPIA. The intent of Congress to preempt state
8 legislative powers must be “clear” and “manifest” in order to supersede state
9 authority. *Rice*, 331 U.S. at 230. And “[w]hen the text of a pre-emption clause is
10 susceptible of more than one plausible reading, courts ordinarily ‘accept the
11 reading that disfavors preemption.’” *Altria*, 555 U.S. at 77 (2008) (quoting *Bates v.*
12 *Dow Agrosciences LLC*, 544 U.S. 431, 449 (2005)). Further, preemption arises
13 only where state and federal law are “irreconcilable.” *Rice v. Norman Williams*
14 *Co.*, 458 U.S. 654, 659 (1982). Because the EPIA contains an express preemption
15 clause, 21 U.S.C. § 1052, the court first must determine the substance and scope of
16 that clause, relying on “the plain language of the statute and its legislative history”
17 to discern Congressional intent. *Altria*, 555 U.S. at 76; *Medicaid & Medicare Adv.*
18 *Prod. Ass’n of Puerto Rico, Inc. v. Emanuelli Hernandez*, 58 F.4th 5, 11 (1st Cir.
19 2023) (quotation omitted)).

20
21 The express preemption clause of the EPIA prohibits states from
22 “requir[ing] *the use of* standards of quality, condition, weight, quantity, or grade
23
24
25
26
27
28

1 which are in addition to, or different from the official Federal standards[.]” 21
2 U.S.C. § 1052(b) (emphasis added).
3

4 The words “use of” cannot be overlooked here. It is the *uniformity* of
5 standards that is of concern for EPIA preemption, not the actual egg quality or
6 grade per se. *See* Egg Products Inspection Act: Hearing Before the Committee on
7 Agriculture and Forestry, 91st Cong. 48 (1969) (statement of Egg Committee
8 Chairman of the Institute of American Poultry Industries M.J. Chamberlain,
9 representing industry, in support of the bill that “will provide for uniformity
10 through the establishment of official standards for quality, condition, quantity or
11 grade and the prohibition of any requirements...inconsistent therewith”). And
12 Plaintiff has failed to plausibly allege that California’s laws conflict or are
13 irreconcilable with the EPIA’s uniformity of standards mandate.
14
15
16

17 Indeed, states today do, in fact, impose a variety of requirements on eggs
18 sold within their borders that are in addition to the bottom-line requirements found
19 in the EPIA. These regulations are lawful, however, because none conflict with the
20 EPIA: none require the use of alternative or heightened identification schemes,
21 standards, grades, and so on. Nor do any conflict with the uniformity of standards
22 required by the EPIA. Iowa, for example, requires that the label on whole eggs in
23 cartons “shall be printed in letters not less than ¼ inch in height, or plainly and
24 conspicuously stamped or marked in letters not less than ½ inch in height.” Iowa
25
26
27
28

1 Admin. Code r. 12-36.8(3). In contrast, South Carolina requires that “[l]etters [for
2 “grade and size”] shall be not less than 5/16 inch in height. Also packer’s or
3 distributor’s name and address letters not less than 1/8 inch in height.” S.C. Code
4 Regs. § 5-228(1).

6 So even though Iowa and South Carolina clearly directly regulate egg
7 labeling in-state—and do so in a way that even contradicts *each other’s* laws—
8 neither is preempted by the EPIA. Similarly, California’s laws (which do not even
9 require certain labels on the products themselves, but only require the documents
10 of title and shipping manifests to record whether or not the eggs are compliant, *see*
11 *infra* Part IV(A)(4)) do not conflict with the EPIA and are therefore not
12 preempted.

15 Plaintiff also misconstrues *Nat’l Meat Ass’n v. Harris*, 565 U.S. 452 (2012),
16 to argue that AB 1437 and Proposition 12 are preempted by the EPIA, though
17 Plaintiff acknowledges that *Harris* dealt with the FMIA rather than the EPIA. The
18 California law at issue in *Harris* prohibited slaughterhouses from “buy[ing],
19 sell[ing], or receiv[ing] a nonambulatory animal;” “process[ing], butcher[ing], or
20 sell[ing] meat or products of nonambulatory animals for human consumption;” or
21 “hold[ing] a nonambulatory animal without taking immediate action to humanely
22 euthanize the animal.” Cal. Penal Code Ann. § 599f(a)–(c). In *Harris*, the Supreme
23 Court held that the FMIA and its implementing regulations *explicitly* address the
24
25
26
27
28

1 handling of nonambulatory livestock during the slaughter process, so the many
2 prohibitions contained in the California law “in essence ... substitute[d] a new
3 regulatory regime” in place of the FMIA’s. *Harris*, 565 U.S. at 460. This is
4 because California’s law directly conflicted with the FMIA, which explicitly
5 permitted slaughter of nonambulatory animals. The two were fully irreconcilable
6 and contradictory. As such, the FMIA preempted California’s attempt to regulate
7 the welfare of animals offered for slaughter due to the plainly preemptive federal
8 rules regulating slaughter. *See Triumph Foods v. Campbell*, No. 24-1759, 2025
9 U.S. App. LEXIS 25777, at *34-35 (distinguishing the challenged law in *Harris*
10 from Massachusetts’ Proposition 12 analogue and holding that Massachusetts law
11 banning sale of certain pork in state is not preempted by the FMIA), *aff’d*, No. 24-
12 1759, 2025 U.S. App. LEXIS 25777, at *36. In contrast, neither AB 1437 nor
13 Proposition 12 impose any requirements on the inspection, processing, or handling
14 of eggs within a federally-regulated processing plant, and Plaintiffs have failed to
15 plausibly point to any way in which they do so.

16
17 Nor do the sale prohibitions impose quality or grade requirements on eggs
18 based on eggs’ “certain inherent properties,” Compl. ¶ 57, ECF No. 1. It was this
19 precise theory that was rejected by courts in the FMIA preemption challenge to
20 Massachusetts’ Proposition 12 analogue.⁹ *See Triumph Foods v. Campbell*, 742 F.

21
22
23
24
25
26
27 ⁹ Mass. G.L. c. 129 App. §§ 1- 1 *et seq.*
28

1 Supp. 3d 63, 71 (D. Mass. 2024), *aff'd*, No. 24-1759, 2025 U.S. App. LEXIS
2 25777, at *36.

3
4 Within the EPIA, “adulterated” is defined solely in terms of food safety. An
5 adulterated egg includes one that is poisoned; has an unsafe pesticide or other
6 chemical or additive; is decomposing or putrid; has been irradiated; and has been
7 packed in unsanitary conditions. 21 U.S.C.S. § 1033(a). Similarly, a “restricted
8 egg” is defined as “any check [broken or cracked], dirty egg [unbroken shell but
9 with adhering dirt or foreign material], incubator reject, inedible, leaker, or loss
10 [unfit for human food due to any of the above, being overheated, frozen,
11 contaminated, bloody].” 21 U.S.C.S. § 1033(g)(8).

12
13
14 These definitions are the egg corollaries of the meaning of the term
15 “unadulterated” in the FMIA, and courts have rejected interpretations like those of
16 Plaintiff that attempt to broaden this concept when in the context of the FMIA and
17 PPIA. *See, e.g., United States v. Agnew*, 931 F.2d 1397, 1404 (10th Cir. 1991),
18 *cert. denied*, 112 S.Ct. 237 (1991) (finding that the term “adulterated” clearly
19 means meat that is unfit for human consumption due to potentially being unsafe,
20 rather than any other issue with it, despite the possible alternative meanings of
21 terms such as “unsound”); *Ass’n des Éleveurs de Canards et d’Oies du Québec v.*
22 *Becerra*, 870 F.3d 1140, 1147-8 (9th Cir. 2017) (finding that the California state
23 ban on products made by force-feeding birds was not preempted by the PPIA
24
25
26
27
28

1 because the force-feeding aspect, having nothing to do with physical composition
2 of the product itself, was not an “ingredient requirement” under the PPIA’s
3
4 preemption clause). So too should Plaintiff’s claims here be rejected.

5 **3. The EPIA also does not impliedly preempt AB 1437**
6 **nor Proposition 12, as there is no irreconcilable**
7 **conflict between EPIA goals and humane standards**
8 **(Counts I and II).**

9 The focus of implied preemption is Congressional intent. *Crosby v. Nat’l*
10 *Foreign Trade Council*, 530 U.S. 363, 372 (2000). Implied preemption, or
11 “conflict preemption,” occurs when compliance with both federal and state
12 regulations is impossible, or when state law poses an “obstacle” to accomplishing
13 Congress’s full purposes and objectives. *Gade*, 505 U.S. at 98; *see also Hines v.*
14 *Davidowitz*, 312 U.S. 52, 67 (1941).

16 In *Chamber of Commerce v. Whiting*, a four-Justice plurality warned that
17 “implied preemption analysis does not justify a ‘free-wheeling judicial inquiry into
18 whether a state statute is in tension with federal objectives,’” which “‘would
19 undercut the principle that it is Congress rather than the courts that preempts state
20 law.’” *Chamber of Commerce v. Whiting*, 563 U.S. 582, 607 (2011) (quoting *Gade*,
21 505 U.S. at 111 (Kennedy, J., concurring)). The Court adopted a “high threshold”
22 burden that must be overcome to establish implied federal preemption of state law.
23
24
25
26 *Id.*

1 Plaintiff has failed to meet this threshold in their pleading claims for implied
2 preemption. Plaintiff has failed to plausibly allege any specific way in which AB
3 1437 nor Proposition 12 are irreconcilable or mutually exclusive the EPIA. These
4 state laws do not “stand[] as an obstacle to the accomplishment and execution of
5 the full purposes and objectives of Congress” in the EPIA, given the above
6 discussion of the purposes of the EPIA. *See Hines v. Davidowitz*, 312 U.S. at 67,
7 70-71 (1941) (holding that a Pennsylvania naturalization law is preempted because
8 federal power in the field of foreign relations is supreme; there has been enacted a
9 broad and comprehensive federal naturalization system; there is a fundamental
10 importance of immigration and naturalization laws to personal liberties; and there
11 has been a history of political upheavals engendered by registration and
12 naturalization laws). Courts have consistently recognized distinctions between
13 laws and regulations against inhumane treatment of animals and bans on products
14 deemed inhumane, and those that speak to other concerns, such as food safety,
15 species preservation, or commerce in wildlife products. *See, e.g., Triumph Foods v.*
16 *Campbell*, No. 24-1759, 2025 U.S. App. LEXIS 25777, at *36 (citing *Iowa Pork*
17 *Producers Ass’n v. Bonta*, No. 22-55336, 2024 WL 3158532, at *5 (9th Cir. June
18 25, 2024), *cert. denied*, No. 24-728, 2025 WL 1787818 (June 30, 2025)); *Ass’n des*
19 *Éleveurs*, 870 F.3d at 1147-8 (9th Cir. 2017) (Court distinguishing between the
20 force-feeding aspect of the bird product and the PPIA’s preemption of alternative
21
22
23
24
25
26
27
28

1 “ingredient requirement[s]”); *Viva! Internat. Voice for Animals v. Adidas*
2 *Promotional Retail Operations, Inc.*, 41 Cal. 4th 929, 952 (2007) (California
3 Supreme Court holding that California’s ban against kangaroo leather products
4 deemed inhumane is not expressly nor impliedly preempted by the Endangered
5 Species Act because the “arrangement [in which federal law does not prohibit
6 importation of kangaroo products, while state law does]...poses no obstacle
7 to current federal policy”).
8
9

10
11 **4. Plaintiff’s claim for preemption regarding packaging**
12 **and labeling of egg products fails (Count III).**

13 Plaintiff’s claim of preemption regarding packaging and labeling of egg
14 products likewise fails under both an express and implied preemption analysis,
15 even taking all Plaintiff’s plausible factual allegations as true. Plaintiff alleges that
16 California’s regulations “regarding the packaging and labeling of egg products, *see*
17 3. Cal. Code Regs. § 1320.4,” violate the EPIA and the Supremacy Clause. Compl.
18 ¶ 66, ECF No. 1. California law prohibits the use of the term “cage free” “or other
19 similar descriptive term unless the shell eggs or liquid eggs were produced in
20 compliance with section 1320.1 of this Article.” 3 Cal. Code Regs. § 1320.4.
21 According to Plaintiff, this specific regulation is preempted by the regulations
22 promulgated by EPIA. Compl. ¶ 65, ECF No. 1. In support of this allegation,
23 Plaintiff states that Cal. Code Regs § 1320.4 imposes labeling and packaging
24 requirements “in addition to” and “different than” those imposed by the EPIA.
25
26
27
28

1 This argument fails for multiple reasons.

2 First, any regulation pursuant to AB 1437 or Proposition 12 that requires the
3 affirmative identification of compliant items applies only to the *records* related to
4 the shipments (“all documents of title and shipping manifests for shipments”) of
5 eggs and egg products imported into California, rather than the shell egg cartons,
6 egg product containers, or case shipments themselves. Cal. Code Regs. Tit. 3, §
7 1320.4(a); *see* Compl. ¶ 52(a)–(c), ECF No. 1. Plaintiff has not plausibly alleged
8 how California’s requirements for the shipping *records* are irreconcilable with
9 requirements of the EPIA for shipments. The EPIA and its implementing
10 regulations require certain identifications given to egg and egg product shipments,
11 *see* 9 CFR § 590.410-415 (requiring “Keep Frozen,” date of loading, date of
12 production, net contents, official inspection sign, and so on, for certain egg
13 products’ shipping containers), but none that would prevent California’s rules for
14 documents of title and manifests. The EPIA’s preemption clause does not touch at
15 all upon shipping manifests or title documents.

16 This is analogous to an Iowa regulation that requires all cases of loose-
17 packed eggs sold in the state to identify the grade of the eggs in the case, though
18 grading of eggs is voluntary federally and the EPIA does not require shipments of
19

1 cases to identify the grade.¹⁰ Iowa Admin. Code r. 21-36.8 (2025). But Iowa’s rule,
2 like California’s, are not an obstacle to the EPIA nor are irreconcilable with it.

3
4 Second, the remaining provisions identified by Plaintiff, *see* Compl. ¶ 52(d),
5 ECF. No. 1, do not impose additional labeling requirements at all. Rather, they are
6 prohibitions against deceptive labeling: “No person shall label, identify, mark,
7 advertise, or otherwise represent shell eggs or liquid eggs for purposes of
8 commercial sale in the state using the term “cage free” or other similar descriptive
9 term unless the shell eggs or liquid eggs were produced in compliance with
10 [Proposition 12].” Cal. Code Regs. Tit. 3, § 1320.4(c). There is a similar
11 prohibition against labeling a product as Proposition 12-compliant when it is not.
12 Cal. Code Regs. Tit. 3, § 1320.4(d). Such a prohibition is qualitatively distinct
13 from an imposition of “additional” or “different” labeling requirements. Federal
14 law does not regulate nor define the term “cage free” (except within the narrow
15 context and confines of a specific, voluntary USDA certification for marketing
16 purposes¹¹). Because the USDA does not regulate the term in labelling broadly,
17 California is entitled to step into this federal vacuum, using traditional state
18 powers, and prohibit deceptive marketing and labeling practices in order to protect
19
20
21
22
23

24
25 ¹⁰ The EPIA only requires that egg handlers and shippers retain records of pertaining to certain
categories, including graded eggs. 9 CFR § 590.200(8).

26 ¹¹ *Cage-Free Verification Of USDA Graded Shell Eggs*, U.S. Dep’t Agric., Agric. Marketing
27 Serv. (Dec. 1, 2019), [https://www.ams.usda.gov/publications/content/cage-free-verification-](https://www.ams.usda.gov/publications/content/cage-free-verification-usda-graded-shell-eggs)
28 [usda-graded-shell-eggs](https://www.ams.usda.gov/publications/content/cage-free-verification-usda-graded-shell-eggs).

1 its consumers. Indeed the deceptive use of the label “cage free” has been the
2 subject of countless lawsuits across the country over the years, *see Janecyk v.*
3 *Eggland's Best, Inc.*, 1:24-cv-06222 (N.D. Ill. July 23, 2024); *Mogull v. Pete &*
4 *Gerry's Organics*, 588 F. Supp. 3d 448 (S.D.N.Y. 2022); *Claybaugh v. Trader*
5 *Joe's Co.*, No. RG18897085 (Super. Ct. Alameda Cty., Cal., Mar. 15, 2018), which
6 itself illustrates that 1) the federal government has failed to protect consumers
7 nationally by regulating the term, and 2) the states have good reason to do so.
8
9

10 **V. Conclusion**

11 For the reasons set forth above, Defendant-Intervenors respectfully request
12 that the court grant their Motion to Dismiss and dismiss the Complaint with
13 prejudice.
14

15 Dated: October 6, 2025

Respectfully submitted,

17
18 /s/ Jessica L. Blome

19 Jessica L. Blome
20 Cal. Bar No. 314898
21 GREENFIRE LAW, PC
22 2748 Adeline Street, Suite A
23 Berkeley, CA 94703
24 (510) 900-9502
25 jblome@greenfirelaw.com

26 *Attorney for Intervenors The Center for*
27 *a Humane Economy and Animal*
28 *Wellness Action*

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Proposed Defendant-Intervenors,
certifies that this brief contains 5,466 words, which complies with the word limit of
L.R. 11-6-1.

Dated: October 6, 2025

/s/ Jessica L. Blome

Jessica L. Blome